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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,292	07/03/2003	Richard P. Komosky	1352	3974

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EXAMINER

COCKS, JOSIAH C

ART UNIT PAPER NUMBER

3749

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,292

Applicant(s)

KOMOSKY, RICHARD P.

Examiner

Josiah Cocks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/03/2003
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings filed 07/03/2003 are accepted by the examiner.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7 and 9-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson (US # 4,117,825) ("*Robertson*") in view of Koichiro Saiki (US # 3,481,267) ("*Saiki*").

Robertson discloses in Figures 1-5 an apparatus for cooking food similar to that described in applicant's claims 1-7 and 9-16. The apparatus is intended to be used in the confines of a fireplace (see col. 1, lines 12-14) and includes a food support surface (34) supported by a holding device (46) and an elongated handle (see Fig. 1). The apparatus further includes a support frame with L-shaped brackets having horizontal base leg members (20 and 22) and vertical leg members (16 and 18). The frame also includes a coupling portion in the form of a slotted member with cross bars (see Fig. 12) that receives distal ends (42 and 44) of the holding device (46) and holds the support surface (34) in a plurality of vertically spaced-apart positions.

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Robertson possibly does not disclose a food grill, which is generally recognized as having a plurality of parallel bars to support food. *Robertson* also does not disclose multiple grills and an arrangement of a pair of slotted members to receive the distal ends of the grill.

Saiki teaches an apparatus for cooking food in the same field of endeavor as *Robertson*. The apparatus of *Saiki* includes traditional food grills (30) with parallel bars/ribs (36) with handles that are supported over a fire by a pair of slotted members (44) that receive distal ends of the grills (see Fig. 1).

Therefore, in regard to claims 1-7 and 9-16, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cooking apparatus of *Robertson* to incorporate the multiple foods grills taught by *Saiki* as multiple grills of this type allow for cooking of a variety of foods, such as a meat, fish, poultry and vegetables and may be independently adjusted to place each grill at a different position to control the amount of heating of the supported foods products (see *Saiki*, col. 2, lines 27-30, col. 3, lines 41-44, and Fig. 1). *Robertson* would be modified to incorporate the coupling portion including a pair of slotted members as taught in *Saiki* as these slotted members form tapered teeth portions (52) which serve to effectively wedge and support the grill members over the flame (see *Saiki*, col. 3, lines 6-35).

4. Claims 8 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over *Robertson* in view of *Saiki* as applied to claims 7 and 16 above, and further in view of Cleveland (US # 3,359,887) ("*Cleveland*").

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Robertson in view of *Saiki* teach all the limitations of claims 7 and 16 except for a crossbar extending between the horizontally extending legs of the L-shaped brackets.

Cleveland teaches a cooking apparatus in the same field of endeavor as both *Robertson* and *Saiki*. In *Cleveland* a crossbar (16) is used to connect the horizontal leg members of a pair of L-shaped brackets (see Fig. 1).

Therefore, in regard to claims 8 and 17, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the apparatus of *Robertson* to incorporate the crossbar taught by *Cleveland* as this crossbar desirably serves as a brace to connect the L-shaped brackets in parallel relation (see *Cleveland*, col. 1, lines 51-53) and effectively support the brackets (see *Cleveland*, col. 1, line 66 through col. 2, line 12).

Conclusion

5. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. *Ross, Dawson, Marogil, Freese, Cooper*, and CH 625 951 are included to further show the state of the art concerning cooking devices.


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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
August 19, 2004


JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749